

**CALENDAR ITEM**

**C49**

A 2, 10, 22, 24, 29, 30

04/20/17

W 27065

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D. Tutov

**ISSUANCE OF A GENERAL LEASE – OTHER**

**APPLICANT:**

California Academy of Sciences, Steinhart Aquarium

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Pacific Ocean, located in Greater Farallones and Monterey Bay National Marine Sanctuaries in Sonoma, Monterey, San Mateo, and Marin Counties.

*AUTHORIZED USE:*

Collection of marine substrate, including live rock and sand from intertidal and subtidal waters in the Pacific Ocean.

*LEASE TERM:*

10 years, beginning April 20, 2017.

*CONSIDERATION:*

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Disturbance or removal of any endangered species, threatened species, or species of concern during the collection of rock is prohibited.
3. Disturbance or removal of cultural resources, including but not limited to, all or parts of sunken vessels, aircraft, shipwrecks, and associated cargo is prohibited. If cultural resources are discovered,

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Lessee must record the location's Global Positioning System (GPS) coordinates and notify Lessor's staff within three business days.

4. Collection of marine substrate within a State Marine Protected Area is prohibited, unless a Scientific Collection Permit from California Department of Fish and Wildlife (CDFW) is obtained.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

California Academy of Sciences, Steinhart Aquarium (Aquarium) has previously collected marine substrate for use in its exhibits under Letters of Non-Objection provided by the Commission's Executive Officer under the Comprehensive Delegation of Authority. In November 2016, staff advised the Aquarium that in order to collect rocks on an ongoing basis, the Aquarium would be required to obtain a lease. The Aquarium is requesting the issuance of a General Lease – Other for the collection of marine substrate, including live rock and sand.

The Aquarium proposes to collect no more than 900 pounds of marine substrate per year from 12 locations in Sonoma, Monterey, San Mateo, and Marin Counties. All live rock and sand will be used exclusively in the Aquarium's displays. Most live rock and sand will be collected by hand or by trained scuba divers. Live rock and sand are made of broken or decomposed natural reef coral populated with millions of beneficial bacteria and organisms that aid in dissolving organic wastes, such as ammonia and nitrates, produced by larger organisms in saltwater aquariums.

Since the Aquarium's re-opening in 2008, more than 11 million visitors have enjoyed its exhibits. Currently the Aquarium has a focus gallery of 11 exhibits, ranging in size from 7-gallon to 2000-gallon tanks, showcasing the biodiversity of northern and southern California coastal marine habitats. These exhibits require periodic "refreshing" with natural material to be used as décor and to enhance animal health in the Aquarium's living exhibits.

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The Aquarium has a current scientific collecting permit from the California Department of Fish and Wildlife (SC-2504), a NOAA National Marine Sanctuaries education permit (MULTI-2010-003-A2), and a California Coastal Commission permit waiver (9-13-0969-W).

The scientific collecting permit allows for collection of specific quantities of identified marine organisms and prohibits the removal of endangered and threatened species. The Aquarium's compliance with its scientific collecting permit will prevent removal of any endangered or threatened species, including abalone, as well as any other species of concern, during live rock and sand collection.

The NOAA National Marine Sanctuaries education permit limits the removal of marine substrate to what can be carried by hand only, and the use of mechanical, pneumatic, or electric tools is prohibited. Marine substrate may not be collected within a State of California Marine Protected Area without CDFW approval. The substrate used in the Aquarium exhibits must not be disposed of or returned to the sanctuaries to prevent the introduction of invasive species or pathogens.

The collection of live rock and sand to be used in the Aquarium's exhibits is for educational and research purposes. Scientific study and education are generally consistent with the common law Public Trust Doctrine. The proposed lease includes certain provisions protecting the public use of the proposed lease areas, including a limited lease term of 10 years. The proposed lease also requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4,

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Minor Alterations to Lands; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize the issuance of a General Lease – Other to California Academy of Sciences, Steinhart Aquarium, beginning April 20, 2017, for a term of 10 years, for the collection of marine substrate, including live rock and sand, from intertidal and subtidal waters in the Pacific Ocean, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached

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and by this reference made a part hereof; consideration being the public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests, and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

W 27065

### LAND DESCRIPTION

Twelve (12) 2000 foot radius circular parcels of tide and submerged land situate in the Pacific Ocean lying within Sonoma, Marin, San Mateo and Monterey Counties, State of California, the center points of said parcels having the following geographic coordinates:

1. 38.546185° North Latitude, 123.299131° West Longitude, Stillwater Cove
2. 38.53254° North Latitude, 123.27379° West Longitude, Timber Cove
3. 37.8833° North Latitude, 122.7043° West Longitude, Duxbury Reef
4. 36.5651° North Latitude, 121.9623° West Longitude, Lingcod Reef
5. 36.2319° North Latitude, 121.7953° West Longitude, Arch Rock Cove
6. 36.1750° North Latitude, 121.6977° West Longitude, Partington Cove
7. 36.4556° North Latitude, 121.9361° West Longitude, Soberanes Point
8. 36.5800° North Latitude, 121.9786° West Longitude, Cypress Point
9. 36.218182° North Latitude, 121.781388° West Longitude, Compost - Big Sur
10. 37.4988° North Latitude, 122.4980° West Longitude, Pillar Point Harbor
11. 36.6067° North Latitude, 121.8795° West Longitude, Del Monte Beach
12. 37.1991° North Latitude, 122.4015° West Longitude, North Pigeon Point

EXCEPTING THEREFROM any portion thereof lying landward of the Ordinary High Water Mark of the Pacific Ocean.

BASIS OF BEARINGS for this description and geodetic values shown are California Geodetic Coordinates of 1983 (1991.35 Epoch). Geographic Coordinates as determined locally by a line beginning at Monument "Wilson Wit Rock South" (PID JT2763) to Monument "Stockhoff" (PID JT2773) being N 41° 18' 06" E, 2752.25 Feet as derived from values published by the National Geodetic Survey.

### END OF DESCRIPTION

Prepared January 26, 2017 by the California State Lands Commission  
Boundary Unit



NO SCALE

Charlotte  
**SITE**

STILLWATER COVE

TIMBER COVE

DUXBURY REEF

PILLAR POINT HARBOR

NORTH PIGEON POINT

CYPRESS POINT

DEL MONTE BEACH

LINGCOD REEF

SOBERANES POINT

ARCH ROCK COVE

COMPOST

PARTINGTON COVE

**Exhibit B**

W 27065  
CALIFORNIA ACADEMY  
OF SCIENCES,  
STEINHART AQUARIUM  
GENERAL LEASE -  
OTHER  
COASTAL COUNTIES



**SITE AREAS**

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.